

Message Text

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E.O. 11652: N/A

TAGS: EFIN, BL

SUBJ: LAWSUIT AGAINST EXIM ATTORNEY RENE ZALLES

REF: TELEPHONE CONVERSATION OF JULY 28

DEPARTMENT PASS EXIMBANK FOR DEPUTY VICE PRESIDENT
PETER VATTNER

1. WE HAVE TALKED WITH RENE ZALLES WHO EXPLAINED THE LEGAL
SUIT IN GREAT DETAIL. BECAUSE WE HAVE BEEN UNSUCCESSFUL FOR
THE PAST TWO DAYS IN OUR EFFORTS TO CALL EXIMBANK, WE ARE
TRANSMITTING A COPY OF THE FOLLOWING SUMMARY OF THE EVENTS
WHICH MR. ZALLES GAVE TO US.

A. EN EL JUICIO EJECUTIVO SEGUIDO POR EXIMBANK CONTRA "COO-
PERATIVA AGROPECUARIA DEL SUR", EL JUEZ DE LA INSTANCIA FALLO
EN FAVOR DEL "EXIMBANK" ORDENANDO QUE SE PAGUE LA DEUDA O SE
REMATE LA MAQUINARIA. ESTA RESOLUCION PASO A LA CORTE SUPREMA,
QUE RESOLVIO QUE LA SENTENCIA DEL JUEZ ESTABA MAL DICTADA,
PORQUE LOS "PROMISSORY NOTES" NO SON DOCUMENTOS EJECUTIVOS,
QUE SE PUEDEN COBRAR EN JUICIO EJECUTIVO (AUNQUE EL CODIGO
MERCANTIL ASI LO DISPONE) Y ANULA EL JUICIO, DISPONIENDO
QUE SE PAGUEN COSTAS.

B. LAS CONSTAS SON LOS GASTOS DEL JUICIO QUE INCLUYEN EL
HONORARIO DEL ABOGADO, Y EN ESTE CASO COMO LA SEN-
TENCIA SE ANULO, LOS HONORARIOS CORRESPONDEN QUE SEAN PA-
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GADOS POR "EXIMBANK". LA COOPERATIVA FFRMO EL 30 DE JUNIO
UN CONTRATO CON "EXIMBANK" Y "HEILBRUN" DE PARAGUAY, EN EL
QUE SE AUTORIZO LA VENTA DE LA MAQUINARIA Y SU EXPORTACION,
COMPROMETIENDOSE CADA PARTE A PAGAR A SU ABOGADO. NO OBS-
TANTE ESE COMPROMISO CONTRACTUAL, LA COOPERATIVA PIDIO AL
JUEZ QUE REGULE HONORARIOS, DESCONOCIENDO EL CONTRATO Y
PRETENDIENDO QUE "EXIMBANK" PAGUE US\$35,000.- EL JUEZ

PESE A QUE SE LE DEMOSTRO QUE SEGUN LA KEY Y ANTERIORES FALLOS DE LA CORTE (JURISPRUDENCIA) NO CORRESPONDIA EL REGULAAR HONORARIOS SEGUN ARANCEL PROFESIONAL, LOS CALIFICO EN ESA CUANTIA. (APARENTEMENTE EXISTE UN ENTENDIDO ENTRE EL ABOGADO UREY Y EL JUEZ SOBRE LOS HONORARIOS QUE TAN ARBITRARIAMENTE SE PRETENDEN).

C. LA RESOLUCION DEL JUEZ SUPREMO 3 DE PARTIDO EN LO CIVIL DE SANTA CRUZ HA SIDO APELADA ANTE LA CORTE, CON FUNDAMENTOS DE SU TOTAL ILEGALIDAD, Y EN EL MOMENTO Y HASTA QUE LA CORTE RESUELVA ESTA EN SUSPENSO, PUDIENDO SER EL RESULTADO IGUALMENTE DESFAVORABLEY QUEDAR CONDENADO "EXIMBANK" AL PAGO DE LOS US\$35,000.

D. LA ACCION COBRATORIA DE LOS HONORARIOS PROFESIONALES, ESTA SIENDO SEGUIDA CONTRA EL ABOGADO DE EXIMBANK DR. RENE ZALLES, PORQUE LOS DOCUMENTOS PARA EL JUICIO LE FUERON ENDOSADOS A SU NOMBRE Y POR LO TANTO NO ACTUO COMO APODERADO, NO OBSTANTE HABER MANIFESTADO DURANTE TODO EL JUICIO QUE LA COBRANZA ERA PARA "EXIMBANK".

E. DE LO QUE ACONTECE RESULTA QUE LA COOPERATIVA HA DESCONCOIADO EL CONTRATO PUES SU PRESIDENTE SUAREZ MONTERO Y SU VICE PRESIDENTE UREY, NO OBSTANTE EL COMPROMISO FORMAL Y ESTAR LA MINUTA DEBIDAMENTE RECONOCIDA Y FIRMADA NO CONCURRIERON A FIRMAR LA ESCRITURA ANTE EL NOTARIO MONASTERIO

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EN SNATA CRUZ, VIOLANDO EN REALIDAD EL CONTRATO. N OBOSTANTE NO HABERSE CONCLUIDO LA ESCRITURACION DEL CONTRATO, LA "COOPERATIVA" Y "HEILBRUN" ESTAN ACTIVAMENTE DESARMANDO LA MAQUINARIA PARA TRASLADARLA AL PARAGUAY. SI LOGRAN ESE POPOOSITO "EXIMBANK" PEREDER (HAVE TO PAY) LOS US \$35,000.- Y NO TENDREMOS NI LA MAQUINARIA NI SU VALOR EN RESGUARDO.

2. MR. ZALLES HAS STRESSED THAT THE TIME ELEMENT IS VERY IMPORTANT BECAUSE THE GIN IS BEING DISASSEMBLED AND WILL BE SENT TO PARAGUAY. ACCORDING TO ZALLES, THIS EXPORT OF THE GIN IS POSSIBLE UNDER THE "MINUTA" WHICH WAS SIGNED BY ALL PARTIES ON JUNE 30.
TWO MEMBERS OF THE COOPERATIVA PRESIDENTE SUAREZ MONTERO AND VICE PRESIDENT UREY HAVE NOT SIGNED THE "ESCRITURA" BEFORE THE NOTARY.

3. MR. ZALLES HAS ASKED THE COURT TO DISMISS MR. UREYY SAUCEDE'S SUIT FOR \$35,000 BECAUSE PREVIOUS COURT DECISIONS HAVE ESTABLISHED THE PRECEDENT THAT AN ATTORNEY'S FEES CAN EQUAL ONLY ACTUAL COSTS AND NOT A PERCENTAGE OF THE AWARD.
ALSO MR. ZALLES HAS ASKED THE COURT TO RECOGNIZE THE

LEGAL VALIDITY OF THE "MINUTA" SIGNED ON JUNE 30
INSTEAD OF THE "ESCRITURA" WHICH MUST BE SIGNED BEFORE
A NOTARY. AS YOU ARE AWARE, THE "MINUTE" STIPULATES
THAT EACH PARTY PAY ITS OWN LEGAL FEES.

4. BECAUSE OF THE COMPLEXITY OF THIS SUIT, WE SUGGEST
THAT YOU CONTACT MR. ZALLES.
BOEKER

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